

REMARKS

Claims 1-11 and 13-21 are pending in the present application.

Information Disclosure Statement

The Examiner has noted that the Information Disclosure Statement filed January 17, 2002 fails to comply with 37 CFR 1.98(a)(2), which requires a legible copy of each U.S. and foreign patent and each publication which caused it to be listed. Applicants note that these copies were filed with the Statement on November 2, 2001, and again as a duplicate Information Disclosure statement on June 12, 2003. Further, Applicants filed a duplicate Supplemental Information Disclosure Statement under 37 CFR 1.97(b)(3) on June 12, 2003 of a Supplemental Information Disclosure Statement filed September 12, 2002. Applicants have also submitted an Information Disclosure Statement on June 18, 2003. Applicants respectfully request that the Examiner consider all legible copies of the cited documents on these Information Disclosure Statements. To date, Applicants have not received **any** initialed PTO-1449 indicating that the Examiner has considered the items **that do comply** with 37 C.F.R. 1.98(a)(2). As MPEP 609 III. C. C(1), the appropriate section pertaining to Information Disclosure Statements filed during prosecution of an utility application, states: "If an **item** of information in an IDS fails to comply with all the requirements of 37 CFR 1.97 and 37 CFR 1.98, that item of information in the IDS will not be considered and a line should be drawn through the citation to show that it has not been considered. **However, other items of information that do comply with all the requirements of 37 CFR 1.97 and 37 CFR 1.98 will be considered by the examiner.**" (Emphasis added).

The Examiner has requested legible copies of references listed under items AT, BN, and DE of the PTO-1449 dated 6/16/03. Applicants have resubmitted these items in an Supplemental Information Disclosure Statement filed herewith. Because the other items listed appear to comply with all requirements, Applicants request the Examiner consider them and provide Applicants with an initialed PTO-1449 indicating such.

The Examiner has cited MPEP 2205 and the corresponding requirements. Applicants respectfully note that this section pertains to a reexamination proceeding. Applicants note to the

Examiner that MPEP 609, not MPEP 2205, recites the minimum requirements for an Information Disclosure Statement. Applicants assert that there is no requirement for English translations of cited foreign documents. Instead, a concise explanation of the relevance of each patent or publication listed that is not in the English language is required. 37 C.F.R. § 1.98(3)(i). Applicants have provided such a statement, together with each of items AN, AO, and AP, in an Supplemental Information Disclosure Statement filed herewith.

Applicants assert that none of the cited documents have been “buried,” contrary to any assertions by the Examiner. The Examiner’s attention is directed to MPEP 2004 ¶10, which states: “[w]hen in doubt, it is desirable and safest to submit information.” As the court in *U.S. Industries v. Norton Co.*, 210 USPQ 94, 107 (N.D.N.Y. 1980) stated: “[i]n short, the question of relevancy in close cases, **should be left to the examiner** and not the applicant.” (Emphasis added).

Rejection of claims 1-21 under 35 U.S.C. §103(a)

Claims 1-21 stand rejected under 35 U.S.C. §103(a), as being unpatentable over WO 98/53352 in view of Turpin et al. (U.S. 4,926,040). As the Examiner knows, a prima facie case of obviousness requires a suggestion or motivation to combine, a reasonable expectation of success, and a teaching or suggestion of all claim limitations. (MPEP §2143.)

The Examiner states that WO '352 “discloses [a] method of reducing linear birefringence in an optical fiber comprising subdividing [a] length of optical fiber into a plurality of sections (figure 4), including between the sections a twist having a predetermined sense of rotation and twist angle.” Applicants assert that WO '352 teaches only an optical fiber that contains different slices of fiber joined by splicing. As the Examiner acknowledges, WO '352 does not disclose heating of the fiber. Further, Applicants assert that there is no suggestion in WO '352 of a method of reducing effects of linear birefringence in an optical fiber using melting or heating of fiber, nor does it teach or suggest an optical fiber with a twist formed by heating, or a twist having a predetermined sense of rotation and a twist angle, as recited in independent claim 1, and dependent claims thereon. There is no teaching or suggestion in WO '352 of a reversing the sense of rotation as recited in claim 2, nor is there any teaching or suggestion in WO '352 of the twist angles between respective ends recited in claims 3-13.

The Examiner asserts that "it would have been obvious to one of ordinary skill in the art at the time of the invention was made to heat the fiber of WO '352 as taught by Turpin et al. so as [to] create rotation of [a] neutral axis without inducing any losses." Applicants assert that Turpin et al teaches only that a fiber is *twisted elastically*, not a "twist formed by heating" a fiber, as recited in independent claim 14. Nor does Turpin et al teach or suggest a "twist having a predetermined sense of rotation and a twist angle" as recited in independent claim 1.

Thus, there is no suggestion in Turpin or WO'352 to combine their teachings and arrive at the claimed invention. Accordingly, Applicants respectfully request reconsideration and withdrawal of this rejection.

CONCLUSION

In view of the foregoing remarks, Applicants submit that the pending claims are in condition for allowance. Early and favorable reconsideration is respectfully solicited. The Examiner may address any questions raised by this submission to the undersigned at 617-832-1000. Should a further extension of time be required other than provided for, Applicant hereby petitions for same and request that the extension fee and any other fee required for timely consideration of this application be charged to Deposit Account, No. 06-1448.

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Respectfully Submitted,



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